

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Unbundled Access to Network Elements	)	WC Docket No. 04-313
	)	
Review of the Section 251 Unbundling	)	CC Docket No. 01-338
Obligations of Incumbent Local Exchange	)	
Carriers	)	

**REPLY COMMENTS OF WORLDNET TELECOMMUNICATIONS, INC.**

WorldNet Telecommunications, Inc. ("WorldNet"), by its undersigned counsel, hereby respectfully submits the following Reply Comments in the above-captioned proceeding.

**I. INTRODUCTION: THE COMMISSION MUST NOT IGNORE DIFFERENCES BETWEEN THE STATE OF COMPETITION ON THE MAINLAND UNITED STATES AND IN PUERTO RICO, AND THE RECORD HERE SUPPORTS EXEMPTING PUERTO RICO FROM ANY NATIONAL FINDING OF "NO IMPAIRMENT" FOR MASS MARKET SWITCHING**

In assessing the state of competition in the United States generally, the Commission must not lose sight of the vast differences between regions within this country. The record in this proceeding establishes that, unlike the rest of the country, facilities-based telecommunications competition in Puerto Rico is all but nonexistent. The RBOCs joint UNE Fact Report 2004, submitted by BellSouth, SBC, Qwest, and Verizon ("RBOC UNE Fact Report"), serves only to prove WorldNet's point that competition in Puerto Rico lags far behind the mainland U.S. For the Federal Communications Commission ("FCC" or "Commission") to ignore these stark differences in making its findings concerning impairment would be arbitrary and capricious. The

record in this proceeding amply demonstrates that the Commission must not include Puerto Rico in any national finding of “no impairment” for unbundled switching, and that the Commission must grant the petition for waiver of the Telecommunications Regulatory Board of Puerto Rico (“Puerto Rico Board”), filed in this docket and currently pending, concerning unbundled “enterprise” switching.<sup>1</sup>

**II. THE RECORD IN THIS PROCEEDING, AND IN PARTICULAR, THE RBOC UNE FACT REPORT, UNDERSCORES THE STARK CONTRAST BETWEEN THE “EMBYRONIC” STATE OF COMPETITION IN PUERTO RICO AND THE RELATIVELY WELL DEVELOPED COMPETITION ON THE MAINLAND**

In filing its petition for waiver of the FCC’s national finding of “no impairment” for enterprise switching, the Puerto Rico Board described telecommunications competition in Puerto Rico as “embryonic.” There are many reasons why competition in Puerto Rico lags behind that in the mainland U.S.<sup>2</sup> Those reasons include, among others, that section 271 never applied to Puerto Rico, and therefore, the incumbent LEC in Puerto Rico, Puerto Rico Telephone Company, Inc. (“PRTC”), never had any incentive to cooperate with its competitors.<sup>3</sup> In any event, as a result of many factors, the barriers to competition in Puerto Rico are severe, and are well documented in WorldNet’s initial comments here, and in the Puerto Rico Board’s waiver petition in this docket. The comments of WorldNet and others in this proceeding amply demonstrate that Puerto Rico *is* different from the mainland U.S., and that those differences *must*

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<sup>1</sup> See *Waiver Petition of the Telecommunications Regulatory Board of Puerto Rico for Enterprise Switching Impairments in Defined Puerto Rico Markets*, CC Doc. Nos. 01-338, 96-98, 98-147, Order and Notice of Proposed Rulemaking, FCC 04-179, p. 16 (filed December 30, 2003) (“*Waiver Petition*”).

<sup>2</sup> WorldNet will not repeat those reasons here, but instead, directs the Commission to its initial comments, as well as its comments on the Puerto Rico Board Waiver Petition and the waiver petition itself.

<sup>3</sup> PRTC did not file initial comments in this proceeding. WorldNet reserves the right to respond in an *ex parte* to any information that the PRTC may choose to file in reply comments.

*be recognized* in any finding that the FCC makes concerning the state of competition on the mainland.

The RBOC UNE Fact Report proves WorldNet's point. The RBOC UNE Fact Report literally ignores Puerto Rico. Despite the fact that Puerto Rico's population is nearly 4 million, and that capital San Juan, with a population of 434,000,<sup>4</sup> is larger than many cities on the U.S. mainland, the RBOC UNE Fact Report includes *no data* concerning Puerto Rico generally or San Juan in particular. Nonetheless, WorldNet did include data on the state of competition in Puerto Rico, and when that data is compared to that contained in the RBOC UNE Fact Report, the differences in the state of competition between Puerto Rico and the mainland are striking.

As WorldNet documented in its initial comments, only one full facilities-based competitor, Centennial License Corp. ("Centennial") exists on the entire island of Puerto Rico, and operates a single, wireline circuit switch.<sup>5</sup> In contrast, ILEC PRTC operates approximately 104 switches on the island.<sup>6</sup> Thus, despite a population in the millions, competitors in Puerto Rico operate less than 1 tenth of one percent of the circuit switches deployed nationwide.<sup>7</sup> This disparity is a result of the well-documented operational barriers to competition that exist on the island. The RBOC UNE Fact Report, which purports to document the state of competition on the mainland, only highlights this disparity.

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<sup>4</sup> See <http://welcome.topuertorico.org/people.html> (listing population statistics).

<sup>5</sup> WorldNet comments at 22.

<sup>6</sup> *Id.*

<sup>7</sup> See RBOC UNE Fact Report at II-37. The FCC also employed this 1,200 figure in making its national impairment finding for enterprise switching in its *Triennial Review Order*.

One need only review Appendix D of the RBOC UNE Fact Report for evidence of the disparity.<sup>8</sup> The RBOC UNE Fact Report does not include the San Juan – Bayamon, Puerto Rico MSA (“San Juan MSA”), which has a population of 1.9 million, on its list of the top 150 MSAs.<sup>9</sup> In contrast to the single wireline switch and single facilities-based network in the San Juan MSA, comparably sized market Portland, Oregon, features 11 full facilities-based CLECs operating 13 networks.<sup>10</sup> In the Nashville, Tennessee MSA, which, at a population of about 1.2 million, is far smaller than San Juan, there are 11 full facilities-based CLECs operating 10 facilities-based networks – ten times as many networks than exist on the entire island of Puerto Rico.<sup>11</sup> Indeed, many cities far smaller than San Juan also feature far more facilities-based networks. Montgomery, Alabama, with a population of approximately 200,000 – one twentieth the size of Puerto Rico in terms of population – features *seven* facilities-based networks, seven times more than in all of Puerto Rico.<sup>12</sup> Even Ann Arbor, Michigan, with a population of about 114,000 – about one-fortieth the population of Puerto Rico and one-fourth the size of San Juan, boasts three facilities-based CLECs.<sup>13</sup> This disparity is even more pronounced if one considers that the RBOC Fact Report measures *networks*, not switches. Centennial’s network in Puerto Rico features one switch used primarily to provide wireline service.<sup>14</sup> In contrast, it is highly likely that the 13 facilities-based networks in Portland and the 11 networks in Nashville contain *more than one* switch.

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<sup>8</sup> By citing to the RBOC UNE Fact Report, WorldNet does not concede that the RBOCs’ statistics or methodology are valid. WorldNet’s point is that, taking the RBOC UNE Fact Report at face value, the disparity between competition on the mainland and in Puerto Rico is severe.

<sup>9</sup> All MSA population statistics are from 2000 Census data.

<sup>10</sup> RBOC UNE Fact Report at D-4.

<sup>11</sup> See RBOC UNE Fact Report at D-5.

<sup>12</sup> See *Id.* at D-12. Montgomery population estimate is from 2000 Census.

<sup>13</sup> *Id.* at D13. Ann Arbor population estimate is from Wikipedia, [http://en.wikipedia.org/wiki/Ann\\_Arbor](http://en.wikipedia.org/wiki/Ann_Arbor).

<sup>14</sup> WorldNet comments at 22.

The FCC used the presence of 1,200 circuit switches nationwide to prove that CLECs nationwide were not impaired without access to unbundled switching. By the FCC's own logic, the large disparity between the number of switches in Puerto Rico and mainland markets of comparable size leads to an inescapable conclusion: either operational barriers, economic barriers, or some combination of both, prevent widespread switch deployment in Puerto Rico. This is the very definition of impairment. For the FCC to ignore this disparity in making a national finding would constitute arbitrary and capricious action.

Respectfully submitted,

**WORLDNET TELECOMMUNICATIONS, INC.**

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